

HOUSE BILL REPORT

EHB 1989

As Amended by the Senate

Title: An act relating to water storage asset management services.

Brief Description: Concerning water storage asset management services.

Sponsors: Representatives Dent and Takko.

Brief History:

Committee Activity:

Local Government: 2/12/15, 2/18/15 [DP].

Floor Activity:

Passed House: 3/3/15, 97-0.

Senate Amended.

Passed Senate: 3/25/15, 48-0.

Brief Summary of Engrossed Bill

- Authorizes a municipality to negotiate a fair and reasonable water storage asset management service contract that includes inspection, cleaning, maintenance, repair, and testing services.
- Establishes procedures for publishing notice of contract requirements and negotiating the contract.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 9 members: Representatives Takko, Chair; Gregerson, Vice Chair; Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Fitzgibbon, McBride, McCaslin, Peterson and Pike.

Staff: Michaela Murdock (786-7289).

Background:

Municipal Water Systems.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Cities and towns may provide for the sewerage, drainage, and water supply of a city or town, and may establish, construct, and maintain water supply systems and systems of sewers and drains within or without their corporate limits.

First Class Cities.

A first class city may contract for public works pursuant to public notice and a call for competitive bids. Subject to limitations, a city may also have public works performed by city employees or a county. "Public works" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the city's cost.

A city may not have public employees perform public works projects: (a) in excess of \$90,000, when more than a single craft or trade is involved; or (b) in excess of \$45,000, when a single craft or trade is involved, the project is street signalization, or the project is street lighting. The competitive bidding requirements for a city may be waived by the city legislative authority if an exemption applies to the work or contract. The city may also let contracts using a small works roster process.

Statute also exempts specific service contracts from contract and competitive bidding requirements: (1) the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services; and (2) the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services.

Second Class Cities.

A second class city must use contract and competitive bidding for public works when the estimated cost of the work or improvement: (a) exceeds \$65,000 and more than a single craft or trade is involved; or (b) exceeds \$40,000, and a single craft or trade is involved, the project is street signalization, or the project is street lighting. Public works below these thresholds may be let by contract or day labor without calling for bids. "Public works" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the city.

When a contract is subject to competitive bidding requirements, the city must publish notice calling for sealed bids and let the contract to the lowest responsible bidder. In lieu of other contract procedures, the city may also let contracts using a small works roster process.

Towns.

Towns are authorized to contract for supplying water for municipal purposes, and to acquire, construct, repair, and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for use of the town, its inhabitants, or irrigating purposes. In letting contracts, towns are authorized to use the same procedures as second class cities.

Summary of Engrossed Bill:

Municipalities are authorized to negotiate a fair and reasonable water storage asset management service contract. Services provided under the contract may include inspection, cleaning, maintenance, repair, and testing of the water storage asset. A "water storage asset"

is defined as water storage structures and distribution systems, such as a water tank, tower, well, meter, or water filter.

Under the new procurement procedures, the municipality:

- must publish their requirements to procure asset management services;
- may negotiate a fair and reasonable service contract with the firm that submits the best proposal that meets procurement requirements;
- may terminate negotiations if the municipality is unable to negotiate a satisfactory service contract with the firm; and
- may select another firm and continue negotiations until a contract is reached or the selection process is terminated.

If the municipality chooses to negotiate a contract under these procurement procedures, no other statutory procurement requirements apply.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment makes the following changes to the underlying engrossed bill:

- clarifies the authority granted to municipalities in the underlying engrossed bill by: (a) creating express authority for municipalities to elect to contract for asset management services of their water storage assets; and (b) specifying that a municipality's exercise of such authority is optional;
- specifies that a municipality is required to publish notice of its requirements to procure services only if the municipality elects to contract for all, some, or one component of water storage asset management services for its water storage assets;
- requires the municipality's contract procurement announcement to state the scope and nature of the water storage asset management service for which a contract is required, rather than the scope and nature of the equipment and services for which a contract is required; and
- makes technical changes.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill was requested by the City of Quincy. Small cities would like to be able to procure long-term maintenance service contracts for their water storage assets. This authority will help small cities that do not have the resources or expertise to take on certain construction or maintenance projects related to their water tanks.

About a year ago, a hole in the procurement law was discovered. A number of small, rural cities were contracting for water tank maintenance services. In researching the procurement statutes, cities discovered that there is no clear statutory authority to contract for these

services, because such service contracts do not clearly fall within the scope of existing procurement statutes (*e.g.*, authority related to public bid procurement or small works roster contracts). This bill gives cities clear statutory authority to contract for water storage maintenance services.

An asset management company based in Georgia maintains water tanks under asset management contracts. The company has approximately 6,000 tanks in 47 states that they maintain under these types of contracts. The company offers services to small or medium sized cities or utilities to maintain the quality of tanks and water.

For many communities, cost management is an ongoing concern and this legislation will provide needed cost certainty to a city's budget. For example, in Quincy, if there is a problem with a water tank, it costs \$10,000 for an inspection before any repair or replacement begins. Water tank refurbishment can cost anywhere from \$100,000 to \$150,000 and usually lasts 10 to 15 years. Under a long-term service contract, costs for maintenance, inspection, testing, and refurbishment of water tanks are covered by upfront and annual amounts, which provides certainty and helps the city manage costs. This bill recognizes the unique nature of the work and service being provided.

(In support with amendment(s)) Water-sewer districts are neutral, but do not have any interest in being included in the bill. Water-sewer districts do not have service contracts for water tank maintenance. The bill references "water districts," which is an outdated reference. An amendment is needed so that the bill refers to the proper statutory term, "water-sewer districts."

(Opposed) None.

Persons Testifying: (In support) Representative Dent, prime sponsor; Michael Shaw and Randy Moore, Utility Service Group; and Jim Hemberry, City of Quincy.

(In support with amendment(s)) Joe Daniels, Washington Association of Sewer and Water Districts.

Persons Signed In To Testify But Not Testifying: None.